

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ben Gilmore	Team: Team # 4	CCRB Case #: 201400676	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 01/17/2014 1:25 PM	Location of Incident: § 87(2)(b) and 113th Precinct stationhouse	Precinct: 113	18 Mo. SOL 7/17/2015	EO SOL 7/17/2015	
Date/Time CV Reported Fri, 01/17/2014 7:03 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/22/2014 10:08 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Carleo	12860	934580	113 PCT
2. POM Robert Deferrari	10918	941635	113 PCT
3. SGT Christophe Ward	02117	934299	113 PCT
4. POM Jose Vasquezmiranda	29316	942655	113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Charisse Gonzalez	01620	940201	113 PCT
2. POM Steven Figueroa	30882	952731	113 PCT
3. POM Carmelo Stracuzzi	19479	951305	113 PCT
4. POM Derek Webber	21329	949786	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Christophe Ward	Abuse: At § 87(2)(b) in Queens, Sgt. Christopher Ward stopped § 87(2)(b)	
B.POM Robert Deferrari	Abuse: At § 87(2)(b) in Queens, PO Robert Deferrari stopped § 87(2)(b)	
C.POM Michael Carleo	Abuse: At § 87(2)(b) in Queens, PO Michael Carleo stopped § 87(2)(b)	
D.POM Jose Vasquezmiranda	Abuse: At 11-423 196th Street in Queens, PO Jose Vasquezmiranda stopped § 87(2)(b)	
E.SGT Christophe Ward	Discourtesy: At § 87(2)(b) Sgt. Christopher Ward spoke discourteously to § 87(2)(b)	
F.POM Michael Carleo	Force: At § 87(2)(b) in Queens, PO Michael Carleo used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G.SGT Christophe Ward	Abuse: At § 87(2)(b) in Queens, Sgt. Christopher Ward authorized the seizure of § 87(2)(b)'s property.	
H.POM Michael Carleo	Abuse: At § 87(2)(b) in Queens, PO Michael Carleo searched the car in which § 87(2)(b) was an occupant.	
I.POM Michael Carleo	Discourtesy: At the 113th Precinct stationhouse, PO Michael Carleo spoke discourteously to § 87(2)(b)	
J.POM Jose Vasquezmiranda	Force: At the 113th Precinct stationhouse, PO Jose Vasquezmiranda used physical force against § 87(2)(b)	
K.POM Robert Deferrari	Force: At the 113th Precinct stationhouse, PO Robert Deferrari used physical force against § 87(2)(b)	
L.SGT Christophe Ward	Force: At the 113th Precinct stationhouse, Sgt. Christopher Ward used physical force against § 87(2)(b)	
M.POM Michael Carleo	Force: At the 113th Precinct stationhouse, PO Michael Carleo used physical force against § 87(2)(b)	

Case Summary

On January 17, 2014, Sgt. Christopher Ward called the IAB Command Center to report that § 87(2)(b) had been injured while in police custody (encl. 14a-c). The CCRB received the complaint (IAB log #14-2234) on January 22, 2014 (encl. 15a-c). On January 17, 2014, at 1:25PM, § 87(2)(b) was arrested in front of § 87(2)(b) in Queens. The following allegations resulted:

Allegation A: Abuse of Authority—At § 87(2)(b) in Queens, Sgt. Christopher Ward stopped § 87(2)(b)

Allegation B: Abuse of Authority—At § 87(2)(b) in Queens, PO Robert Deferrari stopped § 87(2)(b)

Allegation C: Abuse of Authority—At § 87(2)(b) in Queens, PO Michael Carleo stopped § 87(2)(b)

Allegation D: Abuse of Authority—At § 87(2)(b) in Queens, PO Jose Vasquezmiranda stopped § 87(2)(b)

§ 87(2)(g)

Allegation E: Discourtesy—At § 87(2)(b) in Queens, Sgt. Christopher Ward spoke discourteously to § 87(2)(b)

§ 87(2)(g)

Allegation F: Force—At § 87(2)(b) in Queens, PO Michael Carleo used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation G: Abuse of Authority—At § 87(2)(b) in Queens, Sgt. Christopher Ward authorized the seizure of § 87(2)(b)'s property.

§ 87(2)(g)

Allegation H: Abuse of Authority—At § 87(2)(b) in Queens, PO Michael Carleo searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

Allegation I: Discourtesy—At the 113th Precinct stationhouse, PO Michael Carleo spoke discourteously to § 87(2)(b)

§ 87(2)(g)

Allegation J: Force—At the 113th Precinct stationhouse, PO Jose Vasquezmiranda used physical force against § 87(2)(b)

Allegation K: Force—At the 113th Precinct stationhouse, PO Robert Deferrari used physical force against § 87(2)(b)

Allegation L: Force—At the 113th Precinct stationhouse, Sgt. Christopher Ward used physical force against § 87(2)(b)

Allegation M: Force—At the 113th Precinct stationhouse, PO Michael Carleo used physical force against § 87(2)(b)

§ 87(2)(g)

This case was ineligible for mediation.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a black male who stands 5'11" tall, weighs 205 pounds, is § 87(2)(b) old, with a bald head and brown eyes.
- § 87(2)(b) §

Statements to medical personnel: (privileged folder)

The FDNY Prehospital Care Report indicates that § 87(2)(b) said, "They beat me up for nothing." § 87(2)(b) records indicate that § 87(2)(b) reported that he was assaulted by the police. § 87(2)(b) said he was held down and kicked multiple times, including in the eye, by his arresting officer and other officers while he was on the floor at the stationhouse. § 87(2)(b) complained of mild blurry vision out of his right eye only, swelling to his right eye, and an abrasion to his forehead.

Arrest photograph: (encl.16a)

§ 87(2)(b)'s arrest photograph depicts redness and swelling to the right eye; bruising under the right eye; and several bruise marks to the forehead, most notably on the left side of the forehead. There is discoloration, possibly indicative of injury, under the left eye and the bridge of the nose. A significant portion of the right side of § 87(2)(b)'s face is covered with what appears to be medical bandaging.

Statements to IAB and CCRB:

§ 87(2)(b) was interviewed by IAB on January 18, 2014 (encl. 17a-18d), provided a telephone statement to the CCRB on January 30, 2014 (encl. 19a), was interviewed at the CCRB on February 4, 2014 (encl. 20a-g), and provided additional details in person on February 24, 2014 (encl. 21a). § 87(2)(g)

On January 17, 2014, at approximately 1:12PM, § 87(2)(b) exited his home which is located at § 87(2)(b) in Queens and entered his vehicle which was legally parked in the street directly in front of his home. § 87(2)(b) did not carry anything as he exited his house and entered his vehicle. In his interior jacket pockets, § 87(2)(b) had his car keys, cellphone, money, and ID. § 87(2)(b) was not carrying any weapons and none of the items in his pockets created a visible bulge.

§ 87(2)(b) sat in the driver's seat, waiting for his car to warm up, for about 5 minutes when a black Chevrolet Impala pulled up on the driver's side of § 87(2)(b)'s vehicle. The Impala was positioned so that § 87(2)(b) could not proceed without the unmarked car moving out of the way.

Four plainclothes police officers sat in the Impala. The driver of the vehicle, identified by the investigation as PO Robert Deferrari, was described as a white (Italian) male who stood 6'2" – 6'3" tall, weighed 260 pounds, with black hair, and was in his mid-20s. The front passenger of the vehicle, identified by the investigation as Sgt. Christopher Ward, was described as a white male, with a salt and pepper goatee, 5'11" tall, with an average build and in his 40s. PO Michael Carleo, identified via the investigation, sat in the back passenger's seat and was described as a white male, 5'10" tall, 203 pounds, with a salt and pepper goatee, and in his 40s. PO Jose Vasquezmiranda, also identified via the investigation, sat in the back driver's side of the vehicle and was described as an Indian male who stood 5'9" tall, weighed 200 pounds, and was in his 20s.

§ 87(2)(b) knew that he had not done anything wrong, so he waited for his car to warm up and disregarded the Impala which remained on his driver's side. § 87(2)(b) attempted to mind his own business, and he shuffled papers around in his vehicle. § 87(2)(b) was cleaning trash out of his car, and sorting papers in his glove compartment. § 87(2)(b) could not hear what if anything was being said to him so he rolled down the driver's side window of his vehicle.

§ 87(2)(b) asked if there was anything wrong. Sgt. Ward asked, "Why would there be anything wrong?" § 87(2)(b) explained that the officers had stopped next to him and were looking at his car. Sgt. Ward told § 87(2)(b) to "shut the fuck up." In his statement to IAB, § 87(2)(b) alleged that he was asked, "Where the fuck you going?" § 87(2)(b) requested that the officers move their car so that he could proceed to work. The officers began talking amongst themselves in their car, but § 87(2)(b) could not hear what they were saying.

About five minutes after the Impala pulled next to § 87(2)(b)'s vehicle, § 87(2)(b) stepped out of his vehicle, pointed over the hood of his vehicle towards his home, and said he lived right there. Sgt. Ward said, "Get back in your fucking car," and asked § 87(2)(b) why he got out of his car. § 87(2)(b) explained that there was nothing wrong, and that he was right in front of his own home. § 87(2)(b) did not immediately get back in his car. Sgt. Ward opened his door and it collided with § 87(2)(b)'s open driver's side door, and forced the driver's side door into § 87(2)(b)'s leg.

§ 87(2)(b) was caught between the main body of his vehicle and the driver's door of his vehicle, so he stepped out of that space, towards the back of his own vehicle. PO Carleo exited the back passenger's seat of the Impala, and without saying anything and without provocation, punched § 87(2)(b) in the face. PO Carleo punched § 87(2)(b) once with a closed fist, on the middle of § 87(2)(b)'s face. § 87(2)(b) did not sustain any injuries as a result of the punch. Sgt. Ward, PO Vasquezmiranda, and PO Deferrari exited the Impala and, along with PO Carleo, surrounded § 87(2)(b).

All the officers were making contact with § 87(2)(b) and were trying to take § 87(2)(b) to the ground—they had a hold of § 87(2)(b)'s legs and arms. § 87(2)(b) resisted by trying to hold himself up, and he was forcibly placed against the back of his vehicle. In his statement to IAB, § 87(2)(b) said that he was taken to the pavement in a manner which caused

his head to make contact with the ground—§ 87(2)(b) sustained a “gash” and a “bump” as a result. § 87(2)(b) was ordered to place his hands behind his back. § 87(2)(b) felt that the situation was getting “out of hand,” so he complied with this instruction. § 87(2)(b) was placed in handcuffs. In his statement to IAB, § 87(2)(b) alleged that while in handcuffs and standing at the rear of his vehicle, PO Carleo “hit” him twice in the “side.” In his telephone statement to the CCRB, § 87(2)(b) said that he was “slammed” against the trunk of his car.

§ 87(2)(b) asked why he was being arrested. § 87(2)(b) was told that he fit the description of an individual who was robbing elderly women in the neighborhood.

PO Carleo searched § 87(2)(b)'s vehicle by going in the front driver's seat of the vehicle, looking around the dashboard, opening the glove compartment and the front center console. No other officer searched § 87(2)(b)'s vehicle. § 87(2)(b) did not mention that his car had been searched during his statement to IAB. During the search, PO Carleo retrieved a small carpenter's knife from § 87(2)(b)'s vehicle. The knife was foldable and no more than 3” in length. § 87(2)(b) bought the knife from a hardware store, and he believed it was legal. The knife was located in the center console of § 87(2)(b)'s vehicle, which was closed when PO Carleo entered the vehicle.

During the interaction, § 87(2)(b)'s landlord, § 87(2)(b) came out of the building and observed part of the interaction, as well as a neighbor, whose name § 87(2)(b) did not know, identified by the investigation as § 87(2)(b). Both § 87(2)(b) and § 87(2)(b) came out at the same time, when PO Carleo was searching § 87(2)(b)'s vehicle.

§ 87(2)(b) was transported to the 113th Precinct stationhouse. In his statement to IAB, § 87(2)(b) alleged that the officers told him to, “Shut the fuck up,” while they transported him. § 87(2)(b)'s vehicle was driven to the 113th Precinct stationhouse. While before the desk, the charges against § 87(2)(b) were being discussed. § 87(2)(b) was pleading his case, and PO Carleo told § 87(2)(b) to, “Shut the fuck up.” Sgt. Ward, PO Carleo, PO Vasquezmiranda, and PO Deferrari escorted § 87(2)(b) to a back holding cell, away from the holding cells where the other prisoners were located, and they threw § 87(2)(b) to the ground. § 87(2)(b) was still handcuffed at this time.

Sgt. Ward and PO Carleo punched § 87(2)(b) on his face more than 5 times, but § 87(2)(b) did not know the exact number of punches which were thrown. In his statement to IAB, § 87(2)(b) said that Sgt. Ward, PO Vasquezmiranda, and PO Deferrari did not do anything in terms of physical force, and he did not mention that PO Carleo punched him. PO Carleo kicked § 87(2)(b) in his face approximately five times. § 87(2)(b) was on the ground in the holding cell for 5-6 minutes. § 87(2)(b) did not see PO Vasquezmiranda throw a punch or kick, and he indicated that Sgt. Ward and PO Carleo were the officers who were most involved in the physical force against him. While § 87(2)(b) was on the ground, he attempted to protect his face from the kicks and punches. As a result of the force used against § 87(2)(b) at the stationhouse, there was a “knot” on top of § 87(2)(b)'s head, swelling to his eye, as well as blood emanating from § 87(2)(b)'s eye. § 87(2)(b) later learned that he sustained a fracture to a bone around his eye.

The physical force against § 87(2)(b) concluded with Sgt. Ward, PO Carleo, PO Deferrari, and PO Vasquezmiranda moving out of the cell and speaking amongst one another—they ultimately decided to call an ambulance for § 87(2)(b). § 87(2)(b) was transported to § 87(2)(b) and was escorted by PO Carleo and another officer.

§ 87(2)(b) was taken before a judge at Central Booking. § 87(2)(b) faced § 87(2)(b). Out of fear of facing a felony charge, and still “delusional” from his injuries and subsequent medical treatment, § 87(2)(b) agreed to plead guilty to a § 87(2)(b) charge in lieu of facing § 87(2)(b). Even though § 87(2)(b) pled guilty to § 87(2)(b), he maintained that he was

not behaving disorderly during the incident. § 87(2)(b) believed that he was originally stopped due to racial profiling.

Notice of Claim: (encl. 55a-d)

§ 87(2)(b)'s Notice of Claim was consistent with his statement to the CCRB.

50H Hearing (encl. 21.1 – 21.89)

A 50-H Hearing was held regarding this incident on § 87(2)(b). § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Witness: § 87(2)(b)

- § 87(2)(b) is a female neighbor of § 87(2)(b)

Statements to IAB and the CCRB:

§ 87(2)(b) was interviewed by IAB officers, according to the IAB case file, on January 18, 2014 (encl. 23a). § 87(2)(b) provided a telephone statement to the CCRB on February 25, 2014 (encl. 23b). Her statements were consistent.

§ 87(2)(b) reported that at the time of the incident, she was sitting in her dining room when she heard § 87(2)(b) yelling loudly outside. § 87(2)(b) was yelling that he was going to work, and he was not saying anything else. § 87(2)(b) stepped outside onto her porch, and was approximately 10 feet away from § 87(2)(b). § 87(2)(b)'s vehicle was parked in front of § 87(2)(b)'s home.

Approximately four plainclothes police officers, identified by the investigation as PO Carleo, PO Vasquezmiranda, PO Deferrari, and Sgt. Ward, who appeared to have arrived in an unmarked, dark car, were attempting to place § 87(2)(b) in handcuffs against the back bumper of § 87(2)(b)'s vehicle. § 87(2)(b)'s stomach was against the back of his vehicle, and he was not cooperating in allowing himself to be handcuffed. After about 5-10 minutes, § 87(2)(b) was secured in handcuffs.

PO Carleo searched § 87(2)(b)'s vehicle. The search entailed a search of the front and back seats and looking under floor mats. § 87(2)(b) was not sure if PO Carleo opened any compartments inside the vehicle. § 87(2)(b) asked what § 87(2)(b) was being arrested for, and she was informed that he was being arrested for "a little pocketknife." An officer showed § 87(2)(b) the small pocketknife. § 87(2)(b) did not report from where the knife was recovered, or which officer recovered it, or exactly when the knife was recovered).

§ 87(2)(b) observed the officers for approximately 15-20 minutes before they left the scene. PO Carleo drove § 87(2)(b)'s vehicle away from the scene. § 87(2)(b) did not observe any injuries to § 87(2)(b) during his apprehension or at any point prior to him leaving the scene. A day or two later § 87(2)(b) observed § 87(2)(b) with bruises to his face and an injury to his eye.

§ 87(2)(b) was called on February 27, 2014, March 4, 2014, March 5, 2014, and March 12, 2014, and each time a voicemail message was left requesting that she contact the CCRB. On March 7, 2014, § 87(2)(b) was called but there was no way to leave a voicemail message. On March 13, 2014, a final please call letter was sent to § 87(2)(b). The letter was not returned by the USPS. Since February 25, 2014, § 87(2)(b) has not contacted the CCRB.

Witness: § 87(2)(b)

- § 87(2)(b) is a female neighbor of § 87(2)(b)

Statements to IAB and the CCRB:

§ 87(2)(b) was interviewed by IAB officers, according to the IAB case file, on January 18, 2014 (encl. 22a). § 87(2)(b) provided a telephone statement to the CCRB on February 13, 2014 (encl. 22b). § 87(2)(g)

§ 87(2)(b) was inside of her residence when she heard § 87(2)(b) yelling, "I'm going to work! What are you doing this for?" § 87(2)(b) stepped outside her doorway and saw § 87(2)(b) in handcuffs and standing on the side of his vehicle. An officer, identified by the investigation as PO Carleo, searched § 87(2)(b)'s trunk, opened the back doors of § 87(2)(b)'s vehicle and looked around under the seats. § 87(2)(b) did not observe any injury to § 87(2)(b). When § 87(2)(b) returned from police custody, his eye was "messed up."

After providing a telephone statement to the CCRB on February 13, 2014, and scheduling an in-person interview at her home for February 24, 2014, which she missed, § 87(2)(b) told the CCRB on March 5, 2014, that she did not wish to participate in the investigation.

Witness: § 87(2)(b)

- § 87(2)(b) is a neighbor of § 87(2)(b)s.

Statement to IAB:

As per the IAB casefile, § 87(2)(b) was interviewed by IAB on January 18, 2014 (encl. 24a). § 87(2)(b) was walking into her residence when she observed § 87(2)(b) handcuffed and surrounded by police officers. § 87(2)(b) went inside of her home. § 87(2)(b) did not observe any injuries to § 87(2)(b) nor did she see an officer strike him.

Several attempts were made to obtain a statement from § 87(2)(b). On February 5, 2014, a please call letter was sent. § 87(2)(b) was called two times, on February 13, 2014, and February 18, 2014, and a voicemail message was left each time requesting that she contact the CCRB. On February 18, 2014, the only number available for § 87(2)(b) called the CCRB and informed the undersigned that the number did not belong to § 87(2)(b). On February 24, 2014, the undersigned knocked on § 87(2)(b)'s door, but she did not answer, and a please call letter was left at her residence. On March 3, 2014, a final please call letter was sent. Neither letter sent to § 87(2)(b) was returned by the USPS. To date, § 87(2)(b) has not contacted the CCRB.

Witness: § 87(2)(b)

- § 87(2)(b) is a black male who is § 87(2)(b) old.
- § 87(2)(b) was arrested on January 17, 2014, within the confines of the 113th Precinct.

Statement to the CCRB:

§ 87(2)(b) provided a telephone statement to the CCRB on October 17, 2014 (encl. 24b). § 87(2)(b) confirmed that he was at the 113th Precinct stationhouse on January 17, 2014. § 87(2)(b) was in a holding cell which was like "a little room" with other civilians. One civilian had several bruises on his face and the man's eyes were "kind of bleeding." § 87(2)(b) could not see the front desk from the holding cell.

When asked if there was anything which stood out while he was at the stationhouse, § 87(2)(b) said that there was a lot of screaming. § 87(2)(b) believed that police officers were taking a prisoner who was screaming and resisting arrest to the private holding cell area. § 87(2)(b) did not see the man who he believed was resisting (although he was different from the man who was bleeding in the holding cell), nor did he see any officer go to that area.

§ 87(2)(b) did not recall what specifically the man was screaming, but the man believed that something was unfair and the screaming was intense. § 87(2)(b) heard a “smashing” sound against the wall and the floor, and then he heard the sound of people running. § 87(2)(b) was not sure if he heard any sounds indicative of punching or kicking, but he “definitely heard a body dropped on the floor.” The man was cursing and screaming, although § 87(2)(b) did not remember any exact statement. It first sounded like the man was resisting and then it sounded like he was screaming because he was getting hurt. The screaming lasted approximately 15 seconds. § 87(2)(b) did not hear who he believed were officers saying anything. § 87(2)(b) never saw this man. § 87(2)(b) never saw any medical personnel respond to the stationhouse. § 87(2)(b) never saw officers go in the private holding cell area.

§ 87(2)(b) scheduled in person interview at the CCRB on October 24, 2014, but he did not appear.

Attempts to contact witnesses:

The prisoner holding pen roster (encl. 49a-c) indicated that § 87(2)(b) and § 87(2)(b) were held at the 113th Precinct stationhouse during the time of the incident. On October 17, 2014, a please call letter was sent to § 87(2)(b) at two possible addresses, and a first please call letter was emailed to him. On October 17, 2014, a voicemail message was left for § 87(2)(b) requesting that he contact the CCRB. The letters were not returned by the USPS, and to date, § 87(2)(b) has not contacted the CCRB.

On October 17, 2014, a voicemail message was left with § 87(2)(b) requesting that she contact the CCRB. On October 17, 2014, please call letters were sent to two possible addresses for § 87(2)(b). Neither letter was returned by the USPS. To date, § 87(2)(b) has not contacted the CCRB.

On October 17, 2014, § 87(2)(b) was sent a first please call letter. On October 17, 2014, a voicemail message was left for § 87(2)(b) requesting that he contact the CCRB. On October 17, 2014, an alternate number for § 87(2)(b) was called, and a female answered who said that she did not know § 87(2)(b) and that no § 87(2)(b) was associated with the number. The letter sent to § 87(2)(b) was not returned by the USPS. To date, § 87(2)(b) has not contacted the CCRB.

On October 17, 2014, a BADS search revealed that § 87(2)(b) arrest was sealed. A LexisNexis search for § 87(2)(b) in Queens revealed eight possible addresses and four possible telephone numbers. The investigation was unable to narrow the results in order to find appropriate contact information for the § 87(2)(b) in question.

NYPD Statements:

Subject Officer: PO MICHAEL CARLEO

- *PO Michael Carleo is a white male who stands 5'9" tall, weighs 210 pounds, with salt and pepper hair and blue eyes.*
- *On January 17, 2014, PO Carleo worked in plainclothes from 8:00AM until 4:35PM, was assigned to a 113th Precinct SET team with Sgt. Ward, PO Vasquezmiranda, and PO Deferrari, and was assigned to an unmarked RMP #343 which is a black Chevrolet Impala.*

Memo book: (encl. 25a-e)

On January 17, 2014, at 1:20PM a male was stopped in front of § 87(2)(b) with knife clipped to his right front pants pocket. Getting into a vehicle. Defendant got into his vehicle when A/O [stopped is crossed off] talked to defendant. Defendant was acting irrational and reached inside his vehicle. He then opened his driver's side door into the unmarked vehicle. Sgt. Ward opened passenger door to [illegible]. Attempted to place handcuffs on the defendant. Defendant twisted his body, flailing his arms. While handcuffing defendant, defendant fell face first to ground.

At 1:35PM, arrived at 113th Precinct. At 1:40PM, after defendant was logged with desk defendant then was [illegible] cell. Defendant was still cuffed [illegible] twisting his body, refusing to be put in cells. Then I brought defendant with PO Vasquez and PO Deferrari to rear cells to lodge him. In rear cells defendant was acting irrational and [illegible]. Defendant brought to cell #5. While attempting to uncuff defendant inside of cell, defendant twisted body causing defendant and myself to fall to floor. Defendant hit right side of face on [cell pillar?] then [illegible]. Defendant taken to § 87(2)(b) for bruising to face.

At 2:20PM, [illegible] to § 87(2)(b) Defendant [illegible] admitted and getting [illegible] for fractured right eye socket.

Stop, Question and Frisk Report: (encl. 26a-d)

§ 87(2)(b) was suspected of criminal possession of a weapon. He was observed for approximately five seconds before the five minute stop ensued.

§ 87(2)(b) was frisked and searched, which resulted in the recovery of a knife. He was searched because of the outline of a weapon. No other contraband was found. § 87(2)(b)'s demeanor was irate. § 87(2)(b) said, "Fuck you, I'm going to work." § 87(2)(b) was arrested for § 87(2)(b).

The circumstances leading to the stop were: carrying objects in plain view used in commission of crime, furtive movements, actions indicative of engaging in violent crimes, suspicious bulge (knife pocket clip showing), and other reasonable suspicion of criminal activity (defendant reached towards waistband during stop).

§ 87(2)(b) was frisked for the following reasons: verbal threats of violence by § 87(2)(b) other reasonable suspicion of weapons § 87(2)(b) reached hands to waistband during stop), furtive movements, refusal to comply with officers' directions leading to reasonable fear for safety, and suspicious bulge (knife pocket clip showing)

Additional circumstances included: area has high incidence of reported offense of type under investigation; time of day, day of week, season corresponding to reports of criminal activity; proximity to crime location; evasive, false or inconsistent response to officer's questions; and ongoing investigations, e.g., robbery pattern.

Physical force was used because § 87(2)(b) was reaching for suspected weapon. The following physical force was used: handcuffing suspect, hands on suspect, and suspect on ground.

Medical Treatment of Prisoner Report: (encl. 27a)

The Medical Treatment of Prisoner Report indicates that § 87(2)(b) hit his own face into rear cell toilet and floor while being un-handcuffed. § 87(2)(b) sustained bruising to his face and eye due to his actions. The concluding sentence of the narrative—"Defendant may have psych history due to verbal/physical actions."-- was crossed off with a line.

Arrest Report and Criminal Complaint Report (encl. 28a-29b)

The arrest report indicates that § 87(2)(b) was found to be in possession of a gravity

knife. § 87(2)(b) resisted arrest by flailing his arms and kicking his legs in an attempt to escape. § 87(2)(b) was charged with § 87(2)(a) 160.50, § 87(2)(b)

Physical force was used.

Queens Criminal Court Deposition (encl. 30a-b)

§ 87(2)(a) 160.50

IAB Interview and CCRB Testimony:

PO Michael Carleo was interviewed by IAB on March 14, 2014 (encl. 31a-b), and at the CCRB on July 16, 2014 (encl. 32a-d). § 87(2)(g)

On January 17, 2014, at approximately 1:20PM, PO Carleo was travelling northbound in an unmarked RMP on 196th Street in Queens. PO Carleo sat in the rear passenger side, Sgt. Ward sat in the front passenger seat, PO Deferrari drove, and PO Vasquezmiranda sat in the rear driver's side of the vehicle. The area had a pattern of strong-hold robberies, and there was a description of the suspect which was a black male in his early to late 40s, and light-skinned. PO Carleo observed an individual, later learned to be § 87(2)(b) who had some resemblance to the description. Aside from § 87(2)(b) being a middle-aged black male, there was nothing PO Carleo observed which led him to believe that § 87(2)(b) was the perpetrator of the robberies.

§ 87(2)(b) walked towards his personal vehicle which was legally parked in front of § 87(2)(b) in Queens. PO Carleo first saw § 87(2)(b) when he was at the front fender of his vehicle—PO Carleo did not see from where § 87(2)(b) was coming. § 87(2)(b) was facing the RMP as he approached the front driver side of his vehicle. The RMP was approximately 20-30 feet away from § 87(2)(b) and was moving towards him at approximately 20MPH.

§ 87(2)(b) had a clip on his front right pants pocket which was indicative of a knife. PO Carleo was not sure what the clip was, but often clips indicate that a knife is being carried. PO Carleo did not know if the clip was a knife clip or a pen clip. PO Carleo was not sure how long the clip was, but estimated that it may have been 2 inches. Because § 87(2)(b)'s pants were baggy, PO Carleo was not able to see the shape of the item which was attached to the clip. § 87(2)(b) entered his vehicle.

The unmarked RMP stopped parallel to § 87(2)(b)'s parked vehicle, less than a car door's length away, to see if he was the individual involved in the robbery. There was nothing obstructing § 87(2)(b) from pulling his car forward or backward. The intent was to look at § 87(2)(b) and if he did not match the description, to move on. Prior to this point PO Carleo was unable to determine whether § 87(2)(b) fully matched the description of the suspect because his earlier observation of § 87(2)(b) had been a "quick glance."

Inside of his vehicle, § 87(2)(b) flailed his arms and cursed loudly "for no apparent reason." § 87(2)(b) said that the police were repeatedly stopping him, he had done nothing wrong, and that he lived at the location. PO Carleo determined that § 87(2)(b) did not match the description and § 87(2)(b) was free to leave. However, § 87(2)(b)'s behavior caused Sgt. Ward to have concerns for § 87(2)(b)'s well-being. PO Carleo and Sgt. Ward rolled down their windows, and § 87(2)(b) rolled down his window. Sgt. Ward asked § 87(2)(b) if

everything was alright, and § 87(2)(b) accused the officers of repeatedly “fucking” stopping him and said, “Fuck you, I’m going to work.” PO Carleo did not recall if § 87(2)(b) made any verbal threats of violence.

PO Carleo and his partners “were about to leave, and § 87(2)(b) violently came out of the vehicle.” When asked what was violent about § 87(2)(b)’s exit, PO Carleo said that § 87(2)(b) opened his door into the RMP and it appeared to be intentional. It had been approximately 10-15 seconds from the time they pulled next to § 87(2)(b) to the time he exited his vehicle. § 87(2)(b)’s vehicle was off and was never running.

Sgt. Ward opened his door “to prevent § 87(2)(b) from coming towards [them], because [they] had no idea what was on § 87(2)(b)’s person.” PO Carleo exited the RMP to investigate the clip which he feared may have been a knife. § 87(2)(b) stood between the door and frame of his vehicle with his right hand toward his waistband. § 87(2)(b) never grabbed the clip or placed his hand inside of his pocket, but his right hand was moving in the direct area of the clip. PO Carleo ordered § 87(2)(b) to place his hands away from his waistband 2-3 times, but § 87(2)(b) refused.

PO Carleo never told § 87(2)(b) to “Shut the fuck up,” nor did he hear any officer say this. PO Carleo never said, “Get back in your fucking car,” nor did he hear any officer say that.

Approximately 10-15 seconds from the time that § 87(2)(b) stood outside of his vehicle, PO Carleo attempted to move § 87(2)(b) away from his vehicle by grabbing § 87(2)(b)’s arms. The momentum generated, as well as the narrowness of the space between the two vehicles, caused § 87(2)(b) and PO Carleo to fall to the ground. § 87(2)(b) hit the left side of his head on the pavement when he fell to the ground. PO Carleo never punched § 87(2)(b) at the scene of the arrest, nor did he observe any officer do this.

Once on the ground, it took approximately 10 seconds to secure § 87(2)(b) in handcuffs. At the point when § 87(2)(b) was handcuffed, he was under arrest for Obstruction of Governmental Administration, because he had refused to speak with the officers when they were attempting to investigate a robbery pattern. § 87(2)(b) was stood up and he was brought to the rear of his vehicle, although PO Carleo did not recall who did this. § 87(2)(b) was frisked at which point “the pen clip or the clip on his right side was a knife,” although PO Carleo did not recall who frisked § 87(2)(b). At the scene, it was not known whether the knife was legal—it was later determined at the stationhouse that the knife was a gravity knife. In his statement to IAB, PO Carleo said that it was determined at the scene that the knife was a gravity knife.

§ 87(2)(b) was placed inside of the unmarked vehicle. PO Carleo entered § 87(2)(b)’s vehicle to drive it back to the stationhouse. PO Carleo did this because it is his practice to voucher all vehicles during arrests which take place in a vehicle; moreover, § 87(2)(b)’s vehicle smelled like marijuana and PO Carleo was not sure if § 87(2)(b) lived at the location. PO Carleo did not know if an officer had § 87(2)(b)’s ID at the scene. When a DMV check was run at the stationhouse, both the car and registration went to § 87(2)(b). PO Carleo had not smelled the odor of marijuana prior to entering the vehicle to transport it to the stationhouse. It was PO Carleo’s understanding that a vehicle may not be locked and left at the scene when the owner of the vehicle is arrested.

At the scene, PO Carleo searched the left and right side of the driver’s seat, as well as underneath the driver’s seat, because PO Carleo was aware of the knife which was recovered from § 87(2)(b)’s person, and he did not know if § 87(2)(b) had

placed any other weapons inside of the vehicle. PO Carleo did not know if § 87(2)(b) bent over or reached to the floor while he was inside of his vehicle. There was no movement in particular which caused PO Carleo to believe that § 87(2)(b) had placed a weapon in the vehicle. PO Carleo did not search the glove compartment, center console, or anywhere else inside of the vehicle. No other officer participated in the search of § 87(2)(b)'s vehicle. Nothing was recovered in the limited search of § 87(2)(b)'s vehicle.

§ 87(2)(b) was transported to the stationhouse in the unmarked RMP with Sgt. Ward, PO Vasquezmiranda, and PO Deferrari. At the stationhouse, in front of the desk, PO Carleo noticed that § 87(2)(b) had a bump on his forehead which was bleeding. § 87(2)(b) was escorted to the main holding cell by PO Deferrari and PO Carleo.

§ 87(2)(b) moved his torso left and right, and acted "irrationally" by saying, "I live right there." Due to his behavior, § 87(2)(b) was brought to the rear holding cells. § 87(2)(b) was still in handcuffs. There are two rows of rear cells, and in the first of the two rows, § 87(2)(b) fell down. § 87(2)(b) fell on his own and no officer fell with him. § 87(2)(b)'s whole front of his body made contact with the ground, including the front center part of his face. As far as PO Carleo could recall, § 87(2)(b) did not sustain any injuries.

§ 87(2)(b) was escorted by PO Carleo and PO Deferrari to cell number five. PO Carleo informed § 87(2)(b) that they were going to perform a "proper search." PO Deferrari and maybe PO Vasquezmiranda were present, but PO Carleo was not sure. § 87(2)(b) had only been frisked at the scene, and he was not searched in front of the desk due to § 87(2)(b)'s behavior. Inside of holding cell number five, PO Carleo began to remove § 87(2)(b)'s handcuffs, because he hoped that removing the handcuffs would calm § 87(2)(b). PO Carleo learned from his experience that prisoners dislike being handcuffed and that removing handcuffs may be an effective tool for calming prisoners. PO Carleo removed the right hand from its handcuff. § 87(2)(b) moved his body "every which way;" § 87(2)(b)'s momentum "[fell] to me, which then we [fell] forward." § 87(2)(b) fell face first, hitting the right side of his face on the metal toilet and the floor; PO Carleo fell on top of § 87(2)(b). PO Carleo did not intend to go to the ground, but § 87(2)(b)'s physical movement caused both himself and PO Carleo to fall.

PO Carleo re-secured § 87(2)(b)'s right hand in handcuffs within 5-10 seconds, and he then noticed additional bruising and bleeding to § 87(2)(b)'s face. PO Carleo informed Sgt. Ward that § 87(2)(b) sustained additional injuries. Sgt. Ward notified EMS who responded to the scene. It had been approximately one minute from the time that § 87(2)(b) was present before the desk to the time that he fell inside of the holding cell. The undersigned explained that the command log noted § 87(2)(b) at 1:18PM, and that EMS was not called until 1:43PM. The only explanation as to why it took so long to call EMS was that there was a 10-13 called around the time that § 87(2)(b) fell in the rear holding cell, and that job was given priority. It was Sgt. Ward's responsibility to call EMS.

EMS arrived at the scene, and PO Carleo escorted § 87(2)(b) to § 87(2)(b) where § 87(2)(b) received treatment. § 87(2)(b) had bruising to the left and right side of his face. § 87(2)(b) also sustained a fracture to his orbital bone.

PO Carleo never told § 87(2)(b) to, "Shut the fuck up," nor did he hear any officer say this. Aside from the fall at the scene of the arrest, and the two falls at the stationhouse (one of which PO Carleo did not believe led to any injury), PO Carleo did not observe anything else which could have led to the injuries § 87(2)(b) sustained. PO Carleo did not kick or punch § 87(2)(b) nor did he observe any officer do this. In his statement to IAB, PO Carleo said that possibly in the struggle to handcuff § 87(2)(b) an officer kicked or punched him, but he was not certain; PO Carleo denied ever punching or kicking § 87(2)(b).

Subject Officer: SGT. CHRISTOPHER WARD

- *Sgt. Christopher Ward is a white male who stands 6'3" tall, weighs 260 pounds, is § 87(2)(b) old, with brown hair and blue eyes.*
- *On January 17, 2014, Sgt. Ward worked in plainclothes from 8:00AM until 11:27PM. Sgt. Ward was the 113th Precinct SET supervisor, worked with PO Carleo, PO Vasquezmiranda, and PO Deferrari. Sgt. Ward was assigned to unmarked RMP #343, which is a black sedan.*

Memo book: (encl. 33a-c)

Sgt. Ward's memo book indicates that on January 17, 2014, at 1:25PM, § 87(2)(b) was placed under arrest at § 87(2)(b) for § 87(2)(a) 160.50, § 87(2)(b) § 87(2)(b). At 2:00PM, Sgt. Ward returned to the command. An ambulance was notified for § 87(2)(b) who struck his head on the toilet in the rear cells. At 2:20PM, § 87(2)(b) was removed to § 87(2)(b). The commanding officer was notified. At 5:00PM, IAB was notified. At 11:27PM, Sgt. Ward went end of tour.

CCRB Testimony:

Sgt. Christopher Ward was interviewed at the CCRB on July 24, 2014 (encl. 34a-d). § 87(2)(g)

Sgt. Ward first noticed § 87(2)(b) from approximately 1-2 house lengths away. Sgt. Ward sat in the front passenger's seat of the RMP and § 87(2)(b) was coming from the side of a house. Sgt. Ward noticed a clip on § 87(2)(b)'s belt which is commonly used for a gravity knife. Sgt. Ward did not remember where on § 87(2)(b)'s belt the clip was located. Gravity knife clips are typically metal and are 3.5-4 inches in length, and the rounded top part of the knife rises above the end of the clip. Sgt. Ward did not recall if he observed the top part of the knife. Aside from the top part of the knife typically being visible, gravity knife clips tend to be thicker than a pen clip. From his experience, Sgt. Ward is able to distinguish a gravity knife clip from a legal knife clip. Sgt. Ward did not recall if he observed a bulge in connection with the clip.

Sgt. Ward did not recall if there was any conversation about § 87(2)(b) or the knife clip prior to pulling next to § 87(2)(b). The RMP was parked approximately 18 inches away from § 87(2)(b)'s vehicle.

Sgt. Ward explained that § 87(2)(b) was not approached specifically for the robbery pattern, rather he was stopped for suspicious behavior—having the knife clip and emerging from the side of a home-- in an area with a number of robbery and burglary patterns. Sgt. Ward did not recall who decided to approach § 87(2)(b). The intent was to identify § 87(2)(b) and to "talk to him," and to see if he lived at the location.

While § 87(2)(b) was in his vehicle, § 87(2)(b) ducked down, moving his hands towards the side of his person where the knife clip was observed.

Sgt. Ward opened his car door into § 87(2)(b)'s car door because he feared that § 87(2)(b) would stab him through the open RMP window. Sgt. Ward did not know where § 87(2)(b)'s hands were when he exited his car. Later in the interview, Sgt. Ward said that when § 87(2)(b) exited his vehicle, § 87(2)(b)'s hands were in close proximity to the knife clip.

Sgt. Ward did not know what exactly the intent was upon approaching § 87(2)(b) after he had exited his vehicle, or if he was under arrest. § 87(2)(b) could have been arrested or issued a summons based on Sgt. Ward's observation of the gravity knife clip. There was nothing else which § 87(2)(b) did which would have warranted his arrest. Sgt. Ward did not recall which officer first approached § 87(2)(b).

§ 87(2)(b) went to the ground, but Sgt. Ward did not see how § 87(2)(b) went to the ground. PO Carleo did not punch § 87(2)(b). Sgt. Ward assisted in handcuffing § 87(2)(b). § 87(2)(b) was the “strongest individual [Sgt. Ward had] ever tried to put in handcuffs.” Sgt. Ward assumed the gravity knife was recovered at the scene, but he did not have a specific memory of this.

Sgt. Ward instructed the officers to bring § 87(2)(b)'s vehicle to the 113th Precinct stationhouse. Sgt. Ward did this because it was § 87(2)(b)'s personal property, and he wanted to voucher it for safekeeping; Sgt. Ward did not want to leave the car parked on the street. Sgt. Ward explained that this was procedure.

Sgt. Ward did not remember PO Carleo searching § 87(2)(b)'s vehicle at the scene of the arrest. Sgt. Ward did not recall if he smelled marijuana emanating from inside of § 87(2)(b)'s vehicle. Sgt. Ward did not recall if he directed an officer to search § 87(2)(b)'s vehicle.

At the 113th Precinct stationhouse § 87(2)(b) was physically “all over the place,” wiggling his body, and he yelled, screamed, and cursed inside of the stationhouse. Sgt. Ward did not tell § 87(2)(b) to “shut the fuck up,” nor did he hear any officer say this. § 87(2)(b) was thoroughly searched in front of the desk, but Sgt. Ward did not recall who searched him.

Sgt. Ward intended to call EMS because § 87(2)(b) had sustained a bump on his head during his apprehension which may have been bleeding—Sgt. Ward assumed § 87(2)(b) sustained the injury from falling to the ground at the scene of his arrest, but he did not see specifically what caused the injury. Sgt. Ward did not observe anything else which could have led to the injury. Sgt. Ward did not observe any other injuries to § 87(2)(b).

Sgt. Ward instructed PO Carleo and PO Deferrari to take § 87(2)(b) to the holding cells in the back of the stationhouse, because a 10-13 went over the radio and caused such a disturbance. Sgt. Ward determined that they would worry about “lodging” § 87(2)(b) later. Moreover, § 87(2)(b) was combative.

Sgt. Ward remained at the desk. PO Carleo and PO Deferrari escorted § 87(2)(b) toward the back holding cells. § 87(2)(b) was screaming and yelling, but “walking normal[ly].” Sgt. Ward did not see § 87(2)(b) fall to the ground on the way to the back holding cells. The desk is approximately 30 feet away from the back holding cells, and they cannot be seen from the desk.

Within minutes, PO Carleo came from the back holding cells and informed Sgt. Ward that while attempting to remove the handcuffs from § 87(2)(b), § 87(2)(b) became very combative and fell forward, hitting his head on the toilet bowl of the holding cell. Prior to PO Carleo informing Sgt. Ward of this, Sgt. Ward never went to the back holding cell. Sgt. Ward had not heard a struggle. Sgt. Ward never saw § 87(2)(b) in the back holding cell prior to PO Carleo informing him of the additional injuries which § 87(2)(b) sustained. Sgt. Ward never saw any other officer go in the back holding cell area. Sgt. Ward never saw an officer throw § 87(2)(b) to the ground at the stationhouse, nor did Sgt. Ward do this. Sgt. Ward never punched or kicked § 87(2)(b) nor did he observe any officer do this.

Sgt. Ward went to the back holding cell to check on § 87(2)(b). Sgt. Ward observed blood coming from § 87(2)(b)'s mouth, a swollen eye, and a “knot” on his head (this was the same knot which Sgt. Ward had observed when § 87(2)(b) was brought into the stationhouse). Sgt. Ward observed blood on the floor of the holding cell, next to the toilet.

Sgt. Ward went back to the desk and called for an ambulance. At 2:20PM, § 87(2)(b) was taken to § 87(2)(b). Aside from seeing § 87(2)(b) fall at the scene of the arrest, Sgt. Ward did not observe anything which could have led to these injuries.

Sgt. Ward never told § 87(2)(b) to “shut the fuck up,” nor did he hear any officer say this. Sgt. Ward did not say, “Get back in your fucking car,” nor did he hear any officer say this.

PO Carleo did not punch § 87(2)(b) in the face, nor did Sgt. Ward or any officer.

Subject Officer: PO ROBERT DEFERRARI

- *PO Deferrari is a white male who stands 6'6" tall, weighs 300 pounds, is § 87(2)(b) old, with black hair and brown eyes.*
- *On January 17, 2014, PO Deferrari worked in plainclothes from 8:00AM until 4:35PM. PO Deferrari was working on a 113th Precinct SET team with PO Carleo, PO Vasquezmiranda, and Sgt. Ward, and they were assigned to an unmarked RMP #343 which is a black Chevrolet Impala.*

Memo book: (encl. 35a-c)

PO Deferrari's memo book indicates that on January 17, 2014, at 1:20PM a male was stopped in front of § 87(2)(b) with knife clipped to his right front pants pocket getting into a green Chevy. Defendant got into his vehicle. When A/O talked to the defendant he was acting irrational and violent inside of his vehicle. He then opened his door into unmarked vehicle. Sgt. Ward opened passenger front door to prevent defendant to gain access to our vehicle. I then attempted to place handcuffs on defendant, when defendant twisted his body, flailing his arms.

At 1:35PM, PO Deferrari arrived at 113th Precinct. At 1:40PM, while attempting to lodge prisoner in rear cell, prisoner started to fight when we attempted to get a proper search. Defendant then fell forward hitting the toilet bowl. We were then able to re-handcuff defendant without further incident.

At 2:40PM, defendant agrees to go to hospital to get injuries examined with PO Carleo.

CCRB Testimony:

PO Deferrari was interviewed at the CCRB on April 18, 2014 (encl. 36a-e). § 87(2)(g)

§ 87(2)(g)

From approximately 50 feet away, while driving the RMP, PO Deferrari observed the metal clip of a knife clipped to § 87(2)(b)'s front right pants pocket. The clip was metallic, a little longer and wider than a standard pen clip, and the clip got wider as it neared the handle of the knife—it was “a little distinctive” than other kinds of clips. The knife itself was inside of the pocket, but PO Deferrari was able to see the top quarter of an inch of the handle of the knife. The knife did not create a bulge.

§ 87(2)(b) noticed the police vehicle when it was approximately 40 feet away. With his hands outside of his pockets, § 87(2)(b) grabbed the material of his jacket and moved it over the center of his waistband. § 87(2)(b) did not make any motion towards the knife. § 87(2)(b) entered the front driver's seat of the green Chevrolet. PO Deferrari was the officer who observed the clip, and he informed his partners. Sgt. Ward told PO Deferrari to pull up next to § 87(2)(b) and said that he would talk to § 87(2)(b).

§ 87(2)(b)

The intent upon approach was to question § 87(2)(b) about the knife. PO Deferrari said that based on his experience, 99% of the time, a knife with a clip like the one he observed on § 87(2)(b)'s person is that of a gravity knife. PO Deferrari said that sometimes it can be just a folding knife. PO Deferrari explained that especially depending on the line of work, some people carry knives for a legitimate purpose and they are not gravity knives. Until the point when the knife was eventually recovered, PO Deferrari did not know whether the knife he suspected § 87(2)(b) to have was a gravity knife or not.

When § 87(2)(b) began yelling at the officers, Sgt. Ward yelled back but he

did not say to, “shut the fuck up.” PO Deferrari did not recall if he or any officer said, “Get back in your fucking vehicle,” or otherwise told § 87(2)(b) to get back in his vehicle.

Sgt. Ward pinned § 87(2)(b) with his door to prevent § 87(2)(b) from walking away, and he told § 87(2)(b) that he could not leave. § 87(2)(b) was not allowed to leave because of the knife. § 87(2)(b) was not under arrest for the knife, but the officers needed to investigate the knife. As far as PO Deferrari could remember, § 87(2)(b) did not make any violent threats to him or any officer at the scene.

PO Carleo did not punch § 87(2)(b). PO Deferrari did not see how § 87(2)(b) ended up on the ground, nor did he see if § 87(2)(b) landed face first.

Once handcuffed, § 87(2)(b) was brought up from the ground and PO Deferrari immediately retrieved the knife from § 87(2)(b)'s front right pants pocket. PO Deferrari flipped the knife opened and determined that it was a gravity knife.

PO Deferrari observed one lump on § 87(2)(b)'s forehead. § 87(2)(b) said that he hit his head on the ground. PO Deferrari placed § 87(2)(b) at the rear of his vehicle and attempted to frisk and search § 87(2)(b) incident to his lawful arrest regarding the gravity knife, but § 87(2)(b) was pulling his body away from PO Deferrari, so he was only able to perform “somewhat of an okay frisk.” PO Deferrari was able to search § 87(2)(b)'s waistband and pockets.

PO Deferrari did not recall which officer went inside of § 87(2)(b)'s vehicle, but PO Deferrari did not search § 87(2)(b)'s vehicle in any capacity. PO Deferrari did not see an officer go inside any compartments of § 87(2)(b)'s vehicle.

At the 113th Precinct stationhouse, an officer might have told § 87(2)(b) to “shut up” or to “be quiet,” and PO Deferrari told § 87(2)(b) that he should calm down and be quiet, because he was causing a scene. PO Deferrari did not say, “Shut the fuck up,” nor did any officer say this.

In front of the desk, § 87(2)(b)'s pockets were searched. § 87(2)(b) was physically calm at the stationhouse, but he was still “verbally aggressive.”

PO Deferrari and PO Carleo alone escorted § 87(2)(b) to the rear holding cell where they both frisked and searched § 87(2)(b). § 87(2)(b) calmed down when PO Deferrari and PO Carleo explained that his handcuffs would be removed and that they just needed § 87(2)(b)'s belt and shoelaces. PO Deferrari later said that he was not sure if it was explained to § 87(2)(b) that his handcuffs would be removed.

When PO Carleo removed one handcuff, § 87(2)(b) immediately “pulled away” from PO Carleo. The hand which § 87(2)(b) pulled away had the handcuff still secured. Aside from “pulling away,” § 87(2)(b) did not do anything else with his body. Immediately after § 87(2)(b) pulled away, PO Carleo “bear hugged” § 87(2)(b) from behind. PO Carleo pulled § 87(2)(b) down to the ground in an attempt to re-secure the handcuff which he had just removed. § 87(2)(b) was on the ground “immediately, or rather, a couple seconds” after he pulled his hand away from PO Carleo. It looked like PO Carleo threw § 87(2)(b) to the ground, but PO Deferrari was not sure if it was an accident or intentional. PO Deferrari did not throw § 87(2)(b) to the ground.

On PO Carleo's and § 87(2)(b)'s way to the ground, the steel toilet inside the holding cell was struck. PO Deferrari did not see what or who made contact with the toilet, but the toilet made a loud noise.

PO Deferrari was standing at the entrance of the holding cell, and once § 87(2)(b) and PO Carleo were on the ground, PO Deferrari assisted in handcuffing § 87(2)(b). PO Deferrari initially stated that he “went down with § 87(2)(b) and PO Carleo], we all went down together.” PO Deferrari grabbed § 87(2)(b)'s legs, because § 87(2)(b) was kicking at him. § 87(2)(b) kicked PO Deferrari a couple of times, but PO Deferrari was not injured. PO Carleo

attempted to get § 87(2)(b)'s hand behind his back, but § 87(2)(b) was pulling his arms away and twisting his body. PO Carleo was able to secure § 87(2)(b) in handcuffs after a 20-30 second struggle. Aside from commanding § 87(2)(b) to place his hands behind his back, PO Deferrari holding § 87(2)(b)'s legs, and PO Carleo pulling § 87(2)(b)'s arms, nothing else was done in order to handcuff § 87(2)(b). No other officers assisted in handcuffing § 87(2)(b) in the holding cell.

PO Deferrari sat § 87(2)(b) down on the bench inside of the holding cell. § 87(2)(b) had a couple lacerations to his face. PO Deferrari remembered one laceration by § 87(2)(b)'s eye, some bruising and discoloration, and some other "lumps." Aside from § 87(2)(b) making contact with the toilet (which PO Deferrari did not see) PO Deferrari did not observe anything else which could have led to the injuries to § 87(2)(b)'s face. PO Deferrari did not kick or punch § 87(2)(b) in the face, nor did he see any officer do this.

Subject Officer: PO JOSE VASQUEZMIRANDA

- *PO Vasquezmiranda is a Hispanic male who stands 5'8" tall, weighs 225 pounds, is § 87(2)(b) old, with black hair and blue eyes.*
- *On January 17, 2014, PO Vasquezmiranda worked in plainclothes from 8:00AM until 4:35PM. PO Vasquezmiranda was assigned to a 113th Precinct SET team with PO Carleo, PO Deferrari, and Sgt. Ward, and to unmarked RMP #343 which is a black Chevrolet Impala.*

Memo book: (encl. 37a-c)

PO Vasquezmiranda's memo book indicates that on January 17, 2014, at 1:25PM, one individual was placed under arrest by PO Carleo at § 87(2)(b). At 1:30PM, PO Vasquezmiranda arrived at the 113th Precinct stationhouse. Upon removal of handcuffs, the perpetrator began to fight with officers in the rear cell as a s/s [strip search] was being conducted. At 2:30PM, PO Vasquezmiranda went to § 87(2)(b) in regards to the injured perpetrator.

CCRB Testimony:

PO Jose Vasquezmiranda was interviewed at the CCRB on April 30, 2014 (encl. 38a-d).

§ 87(2)(g)
PO Vasquezmiranda sat in the rear driver's side seat of the RMP.

Sgt. Ward alerted the rest of the team that he observed someone, later learned to be § 87(2)(b) who matched the description of a suspect in robbery pattern § 87(2)(e). Aside from § 87(2)(b) matching the description of the suspect on the robbery pattern, there was nothing else which led the officers to approach § 87(2)(b). PO Vasquezmiranda did not see a knife clip. No one mentioned a knife clip until later in the incident when PO Carleo exited the RMP. Upon approaching § 87(2)(b) § 87(2)(b) screamed, cursed, and gesticulated with his hands up in the air.

§ 87(2)(b) opened his car door and it made contact with the RMP. The contact did not seem to be intentional, "he was just trying to get out and we were kind of close." At this point, "We don't know what he's doing, what he has, what he doesn't have." § 87(2)(b) said that he was leaving, and the officers said that § 87(2)(b) needed to speak with them. PO Carleo ordered § 87(2)(b) to keep his hands visible. PO Vasquezmiranda did not say, "Get back in your fucking car," nor did any officer say this.

§ 87(2)(b) was not free to go because he was behaving disorderly; "We wanted to investigate why you're freaking out when we're just stopping next to you." § 87(2)(b) could have been issued a summons or arrested for disorderly conduct. § 87(2)(b)

§ 87(2)(b)'s behavior caused a crowd to gather, neighbors came out of their houses. PO Vasquezmiranda did not see if anyone came out of their houses before § 87(2)(b) had exited his vehicle. At this point, aside from § 87(2)(b) behaving disorderly, there was no other reason why he was not free to go.

Sgt. Ward instructed PO Carleo to exit the RMP and make sure that § 87(2)(b) did not reach for anything. PO Carleo exited the RMP and said that § 87(2)(b) had a knife. PO Vasquezmiranda did not see the knife, nor did he see § 87(2)(b) make a move towards the knife. PO Carleo tried to place § 87(2)(b)'s hands behind his back. § 87(2)(b) refused to place his hands behind his back by grabbing onto the door of his vehicle, and "they fell to the ground." The front part of § 87(2)(b)'s body made contact with the ground, and PO Carleo fell to the side of § 87(2)(b). PO Carleo did not punch § 87(2)(b) in the face.

PO Carleo recovered a knife from § 87(2)(b)'s person, but PO Vasquezmiranda was not sure exactly from where on § 87(2)(b)'s person. PO Carleo determined that the recovered knife was a gravity knife.

§ 87(2)(b)'s vehicle was driven to the 113th Precinct stationhouse by PO Carleo "just in case he had more contraband in the car." § 87(2)(b)'s vehicle was not searched at the scene of the arrest.

§ 87(2)(b) was calling PO Carleo a "pussy" and a "punk" at the stationhouse. In response, PO Vasquezmiranda told PO Carleo that he would process § 87(2)(b) and lodge him in the holding cell. PO Carleo left the front desk area, and it was just PO Vasquezmiranda and § 87(2)(b). PO Vasquezmiranda filled out § 87(2)(b)'s pedigree information and searched him in front of the desk. § 87(2)(b) was "fine" with PO Vasquezmiranda.

PO Vasquezmiranda alone led § 87(2)(b) to the back holding cell. § 87(2)(b) was handcuffed and behaving "fine." PO Vasquezmiranda was explaining that "it was over" and that § 87(2)(b) would be released soon. Sgt. Ward told PO Vasquezmiranda that he "needed to talk about something," and so PO Vasquezmiranda left the rear holding cell area to speak with Sgt. Ward. PO Carleo and PO Deferrari walked over, confirmed that they had control of the situation, and PO Vasquezmiranda left. At the time when PO Vasquezmiranda left § 87(2)(b), § 87(2)(b) was calm. PO Vasquezmiranda went to the arrest processing room, which is approximately 20 feet away from the rear holding cells. The rear holding cells are not visible from the arrest processing room.

From the arrest processing room, PO Vasquezmiranda heard § 87(2)(b) scream (not saying any words in particular) from the rear holding cell area. PO Carleo yelled for more officers, and that he needed help. This occurred approximately one minute after PO Vasquezmiranda had left § 87(2)(b) with PO Carleo and PO Deferrari. PO Vasquezmiranda ran to the rear holding cell. PO Vasquezmiranda did not hear any physical struggle, nor did PO Vasquezmiranda hear a "banging sound."

When PO Vasquezmiranda arrived at the rear holding cell § 87(2)(b) was lying on the ground, with his stomach on the ground, and one hand was in handcuffs. § 87(2)(b) was not doing anything with his body. Both PO Carleo and PO Deferrari were on their feet, kneeling down alongside § 87(2)(b). PO Deferrari and PO Carleo had § 87(2)(b)'s hands behind his back, and they proceeded to secure the second hand in handcuffs. PO Deferrari and PO Carleo were both breathing heavily, and PO Vasquezmiranda told PO Carleo and PO Deferrari to step back, that he would handle § 87(2)(b). PO Vasquezmiranda assisted § 87(2)(b) up from the ground and sat him down on the bench in the holding cell.

PO Vasquezmiranda was presented the arrest photograph of § 87(2)(b) and the abrasion which § 87(2)(b) had sustained at the arrest location was where the bandages in § 87(2)(b)'s arrest photograph were covering. .

PO Carleo told PO Vasquezmiranda that when § 87(2)(b)'s handcuffs were removed,

§ 87(2)(b) “squared up against them.” The undersigned pointed out that PO Vasquezmiranda’s memo book indicates that § 87(2)(b) began to fight with officers, and PO Vasquezmiranda reiterated that he did not observe this, rather, that was what was reported to him by PO Carleo and PO Deferrari.

At the 113th Precinct stationhouse, PO Vasquezmiranda never told § 87(2)(b) “Shut the fuck up,” nor did he hear any officer say this. PO Vasquezmiranda did not throw § 87(2)(b) to the ground, nor did he see any officer do this. PO Vasquezmiranda did not punch or kick § 87(2)(b) nor did he see any officer do this.

Witness Officer: SGT. CHARISSE GONZALEZ

- *Sgt. Gonzalez is a Hispanic female who stands 5’5” tall, weighs 130 pounds, is § 87(2)(b) old, with brown hair and brown eyes.*
- *On January 17, 2014, Sgt. Gonzalez worked alone and in uniform from 6:55AM until 3:52PM. Sgt. Gonzalez was assigned as the 113th Precinct desk officer, and she was not assigned to a RMP.*

Memo book: (encl. 39a-b)

Sgt. Gonzalez does not have any memo book entries regarding this incident.

CCRB Testimony:

Sgt. Charisse Gonzalez was interviewed at the CCRB on April 9, 2014 (encl. 40a-b). Sgt. Gonzalez had no recollection of the incident. Sgt. Gonzalez did not recognize a photograph of § 87(2)(b)

Sgt. Gonzalez reported that prior to § 87(2)(b) arriving at the 113th Precinct stationhouse, Sgt. Christopher Ward called her and told her that he had an arrestee coming in for whom he would do the duties of the desk officer. This is a fairly common occurrence, and is a courtesy of the supervising officer to the desk officer. Sgt. Ward’s request was not unusual nor did it indicate anything unusual about the arrest.

Sgt. Gonzalez left the front desk and went upstairs to perform administrative duties. She went upstairs prior to Sgt. Ward and § 87(2)(b) arriving at the 113th Precinct stationhouse. Sgt. Gonzalez never observed § 87(2)(b). Sgt. Gonzalez could not hear anything which occurred on the main floor from where she was on the second floor.

Other officer interviewed:

PO Figueroa was interviewed by the CCRB (encl. 41a-42b) because roll call listed him as being assigned to stationhouse security. PO Figueroa’s assignment changed to a foot post, and PO Figueroa did not witness any part of the incident.

Other evidence:

Photos (encl. 13a-d)

IAB provided four photographs to the CCRB on June 29, 2014. Photo A appears to be a close-up of the ground to the left of a toilet. The floor is distressed, with chipped paint. There are a few red droplets and smudges on the floor. Photo B is a close-up of the toilet with significant chipping and distress to the entire toilet. Photo C appears to show the inside of a holding cell. Along the left hand side is a solid wall with a wooden bench

which runs the length of the wall. A toilet is positioned a short distance from the bench, against a solid back wall. Neither the front door nor right wall may be seen in the photo. There are red droplets on the floor to the left of the toilet. Photo D depicts an aisle of holding cells in which four holding cell doors may be seen.

IAB Case File (encl. 53a-5312)

The IAB investigation identified PO Michael Carleo as the subject of an excessive force allegation. The IAB investigation found that PO Carleo utilized the necessary amount of force within department guidelines, and the allegation against PO Carleo was exonerated.

Medical Records (privileged folder)

The FDNY Prehospital Care Report indicates that the call regarding § 87(2)(b) was received on January 17, 2014 at 1:43PM, and EMS was on scene at 1:50PM. § 87(2)(b) was seated in a cell at the 113th Precinct stationhouse, with a bleeding and swollen right eye and bruises to his forehead. The mechanism of injury is listed as 'fight/brawl.' NYPD reported that § 87(2)(b) was resisting arrest and sustained an injury to his right eye "as a result during scuffle."

§ 87(2)(b) Medical Records indicate that § 87(2)(b) arrived at § 87(2)(b) on § 87(2)(b), by means of an FDNY hospital and under police custody. § 87(2)(b)'s arrival complaint was 'facial injury,' his acuity was 'urgent,' and he was admitted into the emergency room. § 87(2)(b) was alert, awake, and oriented, with appropriate mood and affect.

The records indicate that § 87(2)(b) was, "resisting arrest, [right] eye swelling [with] blood, able to open [right] eye, pupil reactive.... swelling to forehead." The primary encounter diagnosis and the mechanism of injury were each listed as 'Assault.'

§ 87(2)(b) had an orbital floor fracture. § 87(2)(b) sustained bruising and abrasions to his forehead, significant periorbital edema (eye swelling), a swollen left side of face, and a 1.5 centimeter laceration to the right lower eye lid. Emergency surgical repair was performed on § 87(2)(b)'s right eye. § 87(2)(b) was discharged § 87(2)(b), under police custody.

Medical Examiner Report (privileged folder)

The following conclusions were noted with a "reasonable degree of medical certainty:" The arrest photograph does not clearly depict injuries aside from red-purple discoloration on the central forehead which may be consistent with "abrasion/bruise" noted to be present prior to § 87(2)(b)'s arrival at the 113th Precinct stationhouse. The bandages depicted could cover injuries or surgical intervention, but no definitive conclusions can be drawn regarding what lies underneath the bandaging.

The right orbital floor fracture and right lower eye lid laceration are consistent with blunt impact injuries of the face. The recessed position of the lid laceration is not consistent with a simple fall to the ground, however it may be caused by a punch or kick, or a fall with the face striking a toilet seat. The available documentation (photographs and medical charts) does not provide medical evidence of 15 different blunt impact sites on the head. No statements can be made regarding the red discoloration on the floor adjacent to the toilet.

Dr. McCubbin provided a telephone statement to the CCRB on January 20, 2015. Dr. McCubbin stated that although swelling to the left side of § 87(2)(b)'s face is noted in the medical records, without a better photograph or more specific descriptions of the observed swelling, she could not determine if the swelling indicated trauma to the left side of the face. Dr. McCubbin said that swelling can result in the surrounding area of the specific trauma.

NYPD Documents

COMMAND LOG (encl. 47a)

The Command Log, time stamped at 1:18AM, indicates that PO Carleo arrested § 87(2)(b) for § 87(2)(a) 160.50, § 87(2)(b). Swelling to the left side of § 87(2)(b)'s head is noted and medical attention was requested. § 87(2)(b) was transported to § 87(2)(b) at 2:26PM. An entry in the command log prior to § 87(2)(b)'s arrest notes that Sgt. Gonzalez performed administrative duties while Sgt. Ransome went to the desk.

PROPERTY VOUCHERS (encl. 48a-c)

One multicolored Sheffield gravity knife was vouchered as arrest evidence. The "finder" of the knife is listed as PO Carleo.

A 2000 green Chevrolet Malibu, registered and owned by § 87(2)(b) was vouchered for safekeeping by PO Carleo.

PRISONER HOLDING PEN ROSTER (encl. 49a-c)

The Prisoner Holding Pen Roster indicates that § 87(2)(b) was in the holding cell at 1:15PM and PO Carleo was guarding him. Periodic visits were listed as occurring at 1:30PM and 2:00PM. § 87(2)(b) was transported to § 87(2)(b) at 2:26PM. § 87(2)(b) and § 87(2)(b) were held at the 113th Precinct stationhouse during the time of the incident.

BURGLARY AND ROBBERY PATTERNS (encl. 50a-c)

From December 1, 2014, until January 31, 2014, within the confines of the 113th Precinct, the only potentially relevant robbery or burglary pattern is listed below: § 87(2)(e)' which was opened on January 17, 2014, and regarded a 45-55 year old black male who approached victims on the street, forcibly removed property, and would flee on a blue mountain bike.

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming personal injuries, constitutional and civil rights violations, and New York State and City law violations and seeking \$50,000,000 as redress (encl. 55a-d).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 12a).

Subject Officer(s) CCRB History

- PO Michael Carleo has been a member of the service for 10 years and there is one substantiated CCRB allegation against him (encl. 8a-B).
 - In CCRB case number 201311051 a ‘refusal to provide name and shield number’ allegation was substantiated and instructions were issued.
 - CCRB case number 201002873 included unsubstantiated allegations that PO Carleo kicked one civilian while he was being apprehended by another officer and that he punched a female civilian in the face. In this case, PO Carleo acknowledged kicking one civilian in the arm and punching the other in her face. He stated that the punch was accidental. (encl. 10d-n)
- PO Robert Deferrari has been a member of the service for 8 years and there are no substantiated CCRB allegations against him (encl. 9a).
- Sgt. Christopher Ward has been a member of the service for 10 years and there is one substantiated CCRB allegation against him (encl. 10a-d).
 - In CCRB case number 200905624, a ‘premises entered and/or searched’ allegation was substantiated. After administrative trial, the NYPD found Sgt. Ward not guilty but recommended that Sgt. Ward be reprimanded. The police commissioner disapproved the penalty but not the finding and imposed a loss of 5 vacation days.
- PO Jose Vasquezmiranda has been a member of the service for 8 years and there are no substantiated CCRB allegations him (encl. 11a-b).

Conclusion

Identification of Subject Officers

The subject officers acknowledged interacting with § 87(2)(b) in a manner fairly consistent with § 87(2)(b)'s testimony. The allegations are pleaded accordingly.

Investigative Findings and Recommendations

Allegation A: Abuse of Authority—At § 87(2)(b) in Queens, Sgt. Christopher Ward stopped § 87(2)(b)

Allegation B: Abuse of Authority—At § 87(2)(b) in Queens, PO Robert Deferrari stopped § 87(2)(b)

Allegation C: Abuse of Authority—At § 87(2)(b) in Queens, PO Michael Carleo stopped § 87(2)(b)

Allegation D: Abuse of Authority—At § 87(2)(b) in Queens, PO Jose Vasquezmiranda stopped § 87(2)(b)

On January 17, 2014, at approximately 1:25PM, Sgt. Ward, PO Deferrari, PO Carleo and PO Vasquezmiranda stopped § 87(2)(b) as he entered the driver's seat of his vehicle which was parked in front § 87(2)(b) in Queens.

PO Carleo, Sgt. Ward, and PO Deferrari reported that they saw a clip on § 87(2)(b)'s person. Sgt. Ward and PO Deferrari both identified the clip as typically being associated with a gravity knife due to its length and shape. Sgt. Ward said gravity knife clips are typically 3.5 – 4 inches in length and the rounded part of the knife rises above the clip, although he did not see this rounded part during the incident. PO Deferrari said the clip got wider as it neared the handle of the knife. PO Deferrari said that he could see the top quarter inch of a knife handle. PO Carleo was unable to discern with what the clip was associated. PO Vasquezmiranda did not initially see the clip on § 87(2)(b)

§ 87(2)(b) said that he did not have a knife on his person, but that a small foldable

carpenter's knife was eventually recovered from his vehicle. § 87(2)(b)'s neighbor, § 87(2)(b) said that when she asked why § 87(2)(b) was being arrested, an officer showed her a small pocket knife.

A Sheffield folding knife was recovered and vouchered as arrest evidence (encl. 48a-c). The knife was approximately 3 inches in length with a metal clip. The metal clip was consistent in width and was shorter than 3 inches in length (encl. 13F, 13J).

Excluding PO Deferrari, all the officers mentioned that § 87(2)(b) was approached in regards to a robbery pattern. The only potentially relevant robbery pattern which was open during the time of the incident regarded a 45-55 year old black male who approached victims on the street, forcibly removed property, and would flee on a blue mountain bike.

A stop has occurred when a reasonable person would have believed, under the circumstances, that the officers' conduct was a significant limitation on his freedom, *People v. Bora* (83N.Y.2d 531) (encl. 1a-c).

An officer must harbor reasonable suspicion in order to perform a stop, *CPL 140.50* (encl. encl. 5a). General descriptions are not sufficient to constitute reasonable suspicion, *People v. Dawkins* (163Ad2d 322) (encl. 2a).

In order to stop an individual regarding a gravity knife, an officer "must possess specific and articulable facts from which he inferred that the defendant was carrying a gravity knife," *People v. Vargas* (2011 NY Slip Op 8457) (encl. 3a-b).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E: Discourtesy—At § 87(2)(b) in Queens, Sgt. Christopher Ward spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that when the RMP pulled next to his vehicle and he began explaining why he suspected something was wrong, Sgt. Ward told him to "shut the fuck up." In his interview with IAB, the only discourteous language allegation § 87(2)(b) made regarding the interaction at the scene of his arrest was, "Where the fuck you going?"

§ 87(2)(b) said that when he stepped out of his vehicle to point to his residence, Sgt. Ward said, “Get back in your fucking car.” § 87(2)(b) did not mention in his telephone statement to the CCRB that Sgt. Ward said, “Get back in your fucking car.”

Although the civilian witnesses may not have been able to hear the alleged discourtesies given their placement during the time—all of them reported that when they first saw § 87(2)(b) he was in handcuffs or in the process of being handcuffed-- none of them reported that an officer said ‘shut the fuck up,’ ‘get back in your fucking car,’ or ‘where the fuck you going?’

Sgt. Ward denied telling § 87(2)(b) to “shut the fuck up,” and he denied ordering § 87(2)(b) to, “Get back in [his] fucking car.” PO Carleo, PO Defarrari, and PO Vasquezmiranda denied hearing Sgt. Ward or any officer say either of those things.

§ 87(2)(g)

Allegation F: Force—At § 87(2)(b) in Queens, PO Michael Carleo used physical force against § 87(2)(b)

§ 87(2)(b) stepped out of his vehicle and Sgt. Ward opened the RMP door which pinned § 87(2)(b) between the door and body of his vehicle. PO Carleo exited the RMP and approached § 87(2)(b)

§ 87(2)(b) alleged that PO Carleo punched him with a closed fist in the middle of his face. PO Carleo denied punching § 87(2)(b) and PO Vasquezmiranda, PO Defarrari, and Sgt. Ward denied seeing PO Carleo punch § 87(2)(b)

Although the civilian witnesses may not have been able to see the alleged force given their placement during the time—all of them reported that when they first saw § 87(2)(b) he was in handcuffs or in the process of being handcuffed-- none reported that an officer punched § 87(2)(b)

§ 87(2)(g)

Allegation G: Abuse of Authority—At § 87(2)(b) in Queens, Sgt. Christopher Ward authorized the seizure of § 87(2)(b)'s property.

It is undisputed that § 87(2)(b)'s vehicle was driven from the scene of his arrest by PO Carleo and vouchered for safekeeping. Sgt. Ward ordered officers to voucher the vehicle because it was § 87(2)(b)'s personal property, he did not want to leave the vehicle parked on the street, and he wanted to voucher it for safekeeping. PO Carleo noted the smell of marijuana emanating from § 87(2)(b)'s vehicle, but he only noticed this after he entered the car with the intent to voucher it. PO Carleo said that vehicles are always vouchered during arrests.

An officer may impound the car of an arrestee “only if it is supported by probable cause to believe the car is connected to criminal activity or it furthers police caretaking functions such as safeguarding the streets from traffic congestion, parking violations or road hazards,” *People v. Francis and Thomason* (819 N.Y.S. 2d 393) (encl. 4a-c).

§ 87(2)(g)

§ 87(2)(g)

It is undisputed that § 87(2)(b)'s vehicle was legally parked directly in front of his permanent residence. § 87(2)(g)

§ 87(2)(g)

Allegation H: Abuse of Authority—At § 87(2)(b) in Queens, PO Michael Carleo searched the car in which § 87(2)(b) was an occupant.

Although PO Vasquezmiranda said that § 87(2)(b)'s vehicle was not searched at the scene, and PO Deferrari and Sgt. Ward were not sure if an officer searched § 87(2)(b)'s vehicle, PO Carleo acknowledged searching § 87(2)(b)'s vehicle.

§ 87(2)(b) said that PO Carleo looked around the dashboard, and opened the glove compartment and front center console of his vehicle. § 87(2)(b) alleged that PO Carleo recovered a knife, which he was ultimately charged with, inside of the center console of his vehicle. § 87(2)(b) said that an officer searched § 87(2)(b)'s trunk, opened the back doors, and looked under the seats. § 87(2)(b) said that PO Carleo searched the front and back seats and looked under floor mats, but she was not sure if he opened any compartments.

Sgt. Ward said that he ordered officers to drive § 87(2)(b)'s vehicle to the stationhouse, and PO Carleo said that he entered § 87(2)(b)'s vehicle to drive it to the stationhouse. PO Carleo was aware of the knife which was recovered from § 87(2)(b)'s person, and he did not know if § 87(2)(b) had placed any other weapons inside of the vehicle, so PO Carleo performed a limited search of the vehicle which included the left and right side of the driver's seat and underneath the driver's seat. PO Carleo denied searching the glove compartment, center console, or anywhere else inside of the vehicle. PO Carleo also mentioned that he smelled marijuana emanating from the vehicle after he entered it to voucher it, but no other officer mentioned the smell of marijuana.

People v. Dickens (218 A.D. 2d 584) states that when a vehicle is impounded, "it is reasonable for the police to search it to protect them from any potential danger until the vehicle is brought back to the precinct where a more complete search can be accomplished (encl. 6a-c)."

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation I: Discourtesy—At the 113th Precinct stationhouse, PO Michael Carleo spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that while brought before the 113th Precinct stationhouse desk, he was verbally protesting his arrest when PO Carleo told him to, “Shut the fuck up.”

PO Carleo denied telling § 87(2)(b) to, “Shut the fuck up.” Sgt. Gonzalez, the assigned desk officer, said that she never saw § 87(2)(b) and did not hear any officer say, “Shut the fuck up.” Sgt. Ward, PO Vasquezmiranda, and PO Deferrari all denied hearing PO Carleo say, “Shut the fuck up.”

§ 87(2)(g)

Allegation J: Force—At the 113th Precinct stationhouse, PO Jose Vasquezmiranda used physical force against § 87(2)(b)

Allegation K: Force—At the 113th Precinct stationhouse, PO Robert Deferrari used physical force against § 87(2)(b)

Allegation L: Force—At the 113th Precinct stationhouse, PO Sgt. Christopher Ward used physical force against § 87(2)(b)

Allegation M: Force—At the 113th Precinct stationhouse, PO Michael Carleo used physical force against § 87(2)(b)

§ 87(2)(b) told IAB that he arrived at the 113th Precinct stationhouse with a “gash” and a “bump” to his head which he sustained during his apprehension. The officers all noted similar and no further injuries to § 87(2)(b) upon arrival at the stationhouse. Swelling to the left side of § 87(2)(b)'s head was documented in the command log.

§ 87(2)(b) alleged that while handcuffed he was escorted to a rear holding cell by PO Vasquezmiranda, PO Deferrari, Sgt. Ward, and PO Carleo, and that he was thrown to the ground.

PO Deferrari, Sgt. Ward, and PO Deferrari all reported that PO Vasquezmiranda and Sgt. Ward did not participate in escorting § 87(2)(b) to the rear holding cell and that neither threw § 87(2)(b) to the ground. PO Vasquezmiranda stated that he escorted § 87(2)(b) to the cell and then stepped away when Sgt. Ward said he “needed to talk about something.” Both PO Carleo and PO Deferrari said that they did not throw § 87(2)(b) to the ground. PO Deferrari said it looked like PO Carleo threw § 87(2)(b) to the ground, but he was not sure whether this was intentional or accidental. Sgt. Ward and PO Vasquezmiranda denied observing any of the events which occurred in the rear holding cell.

§ 87(2)(b) alleged that after being thrown to the ground while handcuffed in a rear holding cell, PO Carleo and Sgt. Ward punched him in the face approximately five times. PO Carleo kicked § 87(2)(b) in the face approximately 5 times. In his telephone statement to the CCRB, § 87(2)(b) said that PO Vasquezmiranda, PO Carleo, PO Deferrari, and Sgt. Ward punched him in the face in the rear holding cell. In his statement to IAB, § 87(2)(b) did not report being punched by any officer, and the only officer he alleged who kicked him was PO Carleo.

PO Carleo acknowledged being the primary contact officer with § 87(2)(b) in the rear holding cell, but he denied kicking or punching § 87(2)(b) or observing any officer do so. Sgt. Ward denied punching § 87(2)(b) in the face, and denied seeing any officer kick or punch him. PO Deferrari and PO Vasquezmiranda denied seeing any officer kick or punch § 87(2)(b).

PO Carleo said that he was removing § 87(2)(b)'s handcuffs inside of a rear holding cell, when § 87(2)(b) reared backwards into PO Carleo, and in regaining their balance forward, PO Carleo and § 87(2)(b) fell forward. § 87(2)(b) struck his face on the toilet and floor of

the holding cell which caused additional injuries to § 87(2)(b)'s face. PO Deferrari said that as soon as one handcuff was removed, § 87(2)(b) pulled his hand away which was still handcuffed; PO Carleo responded by "bear hugging" him, and they went to the ground.

In his statement to IAB, PO Carleo said that possibly in the struggle to handcuff § 87(2)(b) in the rear holding cell, an officer kicked or punched him, but he was not certain; PO Carleo denied ever punching or kicking § 87(2)(b).

§ 87(2)(b) was transported from the 113th Precinct stationhouse to § 87(2)(b) by EMS. The hospital records indicate that § 87(2)(b) had an orbital floor fracture of the right eye, bruising and abrasions to his forehead, significant eye swelling, a swollen left side of face, and a 1.5 centimeter laceration to the right lower eye lid. Emergency surgical repair was performed on § 87(2)(b)'s right eye. § 87(2)(b)'s arrest photograph shows several bruise marks to the forehead, most notably on the left side.

The medical examiner, working under the standard of "reasonable degree of medical certainty," was unable to credit or discredit any of the accounts of § 87(2)(b)'s injuries.

Patrol Guide Procedure 203-11 states that officers must use the minimum force necessary at the scene of a police incident (encl. 7a-b).

§ 87(2)(g)
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Investigator: _____
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Supervisor: _____
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